HONOURABLE SRI JUSTICE K.C. BHANU

W.P.No.20681 of 2005

Dated 21st September, 2005

Between:

Toddy Tappers Cooperative Society Devarakadra,
rep. by its President, P.Venkataiah Goud .. Petitioner

and

The Prohibition & Excise Inspector,
Excise station, S.H.O, Atmakur,
Mahabubnagar District and another .. Respondents

HONOURABLE SRI JUSTICE K.C. BHANU

W.P.No.20681 of 2005

ORAL ORDER:

This writ petition is filed challenging the suspension order dated 9.9.2005 passed by the 2nd respondent and also seeking a Mandamus declaring the action of the respondents in not sending one of the samples alleged to have been drawn by the Prohibition and Excise Inspector in Crime Nos.117/2005-06 and 118/2005-06,

dated 7.9.2005 to an independent laboratory, as arbitrary and illegal.

Heard the learned counsel for both the parties and perused the material placed on record.

The learned counsel for the petitioner has contended that the officials have not inspected the premises in question and no licence of the petitioner was seized and no samples were taken.

Insofar as sending the sample to another independent laboratory is concerned, under Rule 24 of A.P. Excise (Arrack and Toddy Licenses General Conditions) Rules, 1969, when a person made an application for sending the sample to the independent laboratory, the same has to be sent to the independent laboratory. Even though the petitioner made an application within time, the respondents have not taken any action in forwarding the same to the independent laboratory. Therefore, the respondents are directed to send one of the samples drawn in Crime Nos.117 and 118 of 2005-06 to the independent laboratory in accordance with rules. Insofar as the suspension of the licence of the toddy shop is concerned, a *prima facie* test conducted by the police officials reveals that the toddy was adulterated with choral hydrate, which is dangerous to health. Therefore, the impugned suspension order has been passed pending enquiry. The authority of the 2nd respondent, who passed the impugned order, is not under challenge. An appropriate decision has to be taken by the respondents in accordance with law after receipt of the opinion from the independent laboratory.

Hence, the writ petition is disposed of in terms of the above direction. No costs.

21.09.2005

bcj